

Contract Negotiation Techniques

Competitive Discussions

Chapter 8



Federal Acquisition Institute
General Services Administration

Competitive Discussions Defined

- **Meaningful communication with multiple offerors**
- **Communicates information essential in determining proposal acceptability**
- **Provides offerors with opportunity to revise initial proposal**

Bargaining Environment Differences

- Increased government bargaining power
 - Multiple sources instead of a single source
 - Competition between offerors
- Unfavorable aspects
 - Unrealistically low offers (“buy-in”)
 - Government temptation to use win/lose tactics and break rules
 - Collusion between offerors
 - Use of unsavory methods to illicitly obtain information

Distinguishing Characteristics

- **Non-price evaluation factors**
 - **Technical appraisal**
 - **Business and management assessment**
 - **Past performance**
- **Discussion with offers in competitive range**
- **Desired outcome:**
 - **not reach final agreement**
 - **persuade offeror to submit an improved BAFO**

Possible Outcomes

- BAFO improved per discussion
- BAFO unchanged
- Unexpected BAFO changes

Competitive Discussion Steps

- **Safeguard confidential information**
- **Brief government team on special rules**
- **Conduct discussions**
 - resolve technical uncertainties
 - disclose deficiencies
 - provide opportunity to revise BAFO
- **Evaluate BAFOs**
 - make recommendations to SSA
 - debrief losing offerors

Disclosing Deficiencies

Disclose deficiencies without providing comparisons with competing proposals, such as:

- **Failure to meet specifications**
- **Failure to submit required information**
- **Unrealistic cost estimates**
- **Questionable technical or management approaches**

What You Cannot Do

- **Disclose information about other offers**
- **Use auction techniques**
- **Engage in technical transfusion**
- **Engage in technical leveling**

What You Must Do

- **Treat all offerors the same**
- **Identify suspected technical uncertainties**
- **Identify suspected pricing deficiencies**
 - **Over-estimates**
 - **Mistakes (under-estimates)**
- **Provide opportunity to revise proposal**

What You Can Do

- Point out proposal variations from RFP
- Discuss potential tradeoffs
- Persuade the offeror to improve on price in the BAFO
- Point to indicators that price is too high
 - Data from that offeror
 - Historical prices
 - Commercial prices
 - Reach informal agreement
 - Cost-estimating relationships
 - Reach informal agreement